

REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on June 5, 2007, the Examiner rejected claims 94, 95, 100-108, 110, 114-118 under 35 U.S.C. 102(e) as being anticipated by Kravetz et al (United States Patent No. 6,397,196, hereinafter “Kravetz”), rejected claim 96 under 35 U.S.C. 103(a) as being unpatentable over Kravetz in view of Official Notice, rejected claims 99 and 113 under 35 U.S.C. 103(a) as being unpatentable over Kravetz in view of Risafi et al (United States Patent No. 6,473,500, hereinafter “Risafi”), and rejected claim 117 under 35 U.S.C. 103(a) as being unpatentable over Kravetz in further view of an article by Rusty Cawley (“New Texas Capital product marries payroll, ATMs”, hereinafter “Cawley”). Accordingly, Applicant respectfully submits the following:

Rejections under 35 U.S.C. 102

In the Office Action, the Examiner rejected claims 94, 95, 100-108, 110, 114-118 under 35 U.S.C. 102(e) as being anticipated by Kravetz. Applicant respectfully submits that the claim set as provided herein is not anticipated by the cited references.

In the Office Action, mailed from the United States Patent and Trademark Office on October 12, 2006, the Examiner rejected independent base claims 94 and 107 “under 35 U.S.C. 103(a) as being unpatentable over Georgetown University Employment Services (hereinafter Georgetown) in view of Kravetz et al. United States Patent 6,397,196 (hereinafter Kravetz).” In a response filed with the United States Patent and Trademark Office on March 14, 2007, Applicant added additional limitations to independent base claims 94 and 107 and provided supporting arguments to overcome at least the Georgetown reference, as identified in the Office Action mailed from the United States Patent and Trademark Office on June 5, 2007. Accordingly, Applicant respectfully submits that a subsequent rejection of independent base

claims 94 and 107 under 35 U.S.C. 102, using the same Kravetz reference as was provided in the Office Action mailed from the United States Patent and Trademark Office on June 5, 2007, is improper. Accordingly, Applicant respectfully requests that the rejection under 35 U.S.C. 102 of independent base claims 94 and 107, and any claims that depend from claims 94 or 107, be withdrawn.

Additionally, Applicant respectfully provides that the standard for a Section 102 rejection is set forth in M.P.E.P 706.02 and provides:

“... for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present.”

Applicant respectfully submits that Kravetz does not teach every aspect of the claim set as provided herein and therefore does not anticipate the claims. In particular, independent claim 94 recites a method for providing payroll access to an employee through a third party upon demand by said employee, the method comprising: receiving an electronic request for said payroll access against wages of said employee, wherein said request is made from said employee to said third party who is not an employer of said employee, wherein said wages have been earned by said employee but not yet paid to said employee by said employer, and wherein said payroll access is upon demand and does not require a predetermined scheduling of said payroll access; authorizing a distribution of payroll by the third party based upon said electronic request; automatically distributing said payroll distribution to said employee; and deducting an amount corresponding to said payroll distribution from a future wage payment to said employee. Independent claim 107 recites a method of providing an employee payroll access to funds that have been earned by an employee but not paid to said employee by an employer and without requiring a predetermined scheduling of said payroll access, the method comprising: receiving an

electronic request from said employee for said payroll access against wages of said employee, wherein said request is made from said employee to a third party who is not an employer of said employee, wherein said wages have been earned by said employee but have not yet been paid to said employee by said employer, wherein said payroll access is upon demand by said employee and does not require a predetermined scheduling of said payroll access, and wherein said request originates from an automated teller machine and is transmitted over a computer network; authorizing a distribution of payroll funds by said third party without restrictions of said third party and based upon said wages; distributing an amount of said payroll funds to said employee through said automated teller machine; and deducting said amount of said payroll funds distributed through said automated teller machine from a future wage payment to said employee. Independent claim 118 recites a method for providing a payroll advance to an employee upon demand by said employee without requiring a predetermined scheduling of said payroll access, the method comprising: receiving a request from said employee for said payroll advance against wages of said employee, wherein said request is made from said employee to a third party who is not an employer of said employee, wherein said wages have been earned by said employee but have not yet been paid to said employee, and wherein said payroll advance is upon demand by said employee and does not require a predetermined scheduling of said payroll access; authorizing a distribution of payroll by the third party based upon said request; automatically distributing said payroll distribution to said employee; and deducting an amount corresponding to said payroll distribution from a future wage payment to said employee. Such limitations in the independent base claims are supported by the disclosure as originally filed.

In contrast, Kravetz does not explicitly or impliedly teach every aspect of the claimed invention. For example, Kravetz does not explicitly or impliedly teach “receiving an electronic

request for said payroll access against wages of said employee, ... wherein said wages have been earned by said employee but not yet paid to said employee by said employer”. Instead, Kravetz teaches of a hybrid installment loan/savings account wherein automatic payroll deduction is applied to pay off the loan and continues even after the loan is paid in full. (col. 1, lines 55-59) In this manner, Kravetz teaches that a customer can use automatic payroll deduction to pay off the loan amount and then continue the automatic payroll deduction to accrue savings while earning interest. (col. 1, lines 61-64)

For at least these reasons, Applicant respectfully submits that Kravetz does not explicitly or impliedly teach every aspect of the invention as claimed in the independent base claims. In addition, the dependent claims place further limitations on otherwise allowable subject matter. Accordingly, Applicant respectfully submits that the cited reference does not teach every aspect of the claims as provided herein and therefore does not anticipate the claims as provided herein.

Accordingly, for at least these reasons, rejection of the claims under 35 U.S.C. § 102 is respectfully requested to be withdrawn.

Rejections under 35 U.S.C. 103

Applicant respectfully submits that the standard for a Section 103 rejection is set for in M.P.E.P 706.02(j), which provides:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

Applicant respectfully submits that the references cited by the Examiner do not teach or suggest the limitations claimed in the present invention. In particular, independent claim 94 recites a method for providing payroll access to an employee through a third party upon demand by said employee, the method comprising: receiving an electronic request for said payroll access against wages of said employee, wherein said request is made from said employee to said third party who is not an employer of said employee, wherein said wages have been earned by said employee but not yet paid to said employee by said employer, and wherein said payroll access is upon demand and does not require a predetermined scheduling of said payroll access; authorizing a distribution of payroll by the third party based upon said electronic request; automatically distributing said payroll distribution to said employee; and deducting an amount corresponding to said payroll distribution from a future wage payment to said employee. Independent claim 107 recites a method of providing an employee payroll access to funds that have been earned by an employee but not paid to said employee by an employer and without requiring a predetermined scheduling of said payroll access, the method comprising: receiving an electronic request from said employee for said payroll access against wages of said employee, wherein said request is made from said employee to a third party who is not an employer of said employee, wherein said wages have been earned by said employee but have not yet been paid to said employee by said employer, wherein said payroll access is upon demand by said employee and does not require a predetermined scheduling of said payroll access, and wherein said request originates from an automated teller machine and is transmitted over a computer network; authorizing a distribution of payroll funds by said third party without restrictions of said third party and based upon said wages; distributing an amount of said payroll funds to said employee through said automated teller machine; and deducting said amount of said payroll funds

distributed through said automated teller machine from a future wage payment to said employee.

Independent claim 118 recites a method for providing a payroll advance to an employee upon demand by said employee without requiring a predetermined scheduling of said payroll access, the method comprising: receiving a request from said employee for said payroll advance against wages of said employee, wherein said request is made from said employee to a third party who is not an employer of said employee, wherein said wages have been earned by said employee but have not yet been paid to said employee, and wherein said payroll advance is upon demand by said employee and does not require a predetermined scheduling of said payroll access; authorizing a distribution of payroll by the third party based upon said request; automatically distributing said payroll distribution to said employee; and deducting an amount corresponding to said payroll distribution from a future wage payment to said employee. As provided above, such limitations are supported by the disclosure as originally filed.

In contrast, the references cited by the Examiner, alone or in combination, do not teach or suggest all the claim limitations. For example, the references cited by the Examiner, alone or in combination, do not teach or suggest “receiving an electronic request for said payroll access against wages of said employee, ... wherein said wages have been earned by said employee but not yet paid to said employee by said employer”. Additionally, the references cited by the Examiner, alone or in combination, do not teach or suggest “receiving an electronic request for said payroll access against wages of said employee, ... wherein said payroll access is upon demand by said employee and does not require a predetermined scheduling of said payroll access”.

For at least this reason, Applicant respectfully submits that the references cited by the Examiner, alone or in combination, do not teach or suggest all the claim limitations of the

independent base claims. And, since the references cited by the Examiner do not teach or suggest each and every limitation of the independent claims, Applicant respectfully submits that the prior art references do not make obvious the independent claims as provided herein. And since the prior art references do not make obvious the independent claims, Applicant respectfully submits that the prior art references cited by the Examiner do not make obvious the corresponding dependent claims, which depend from the independent base claims.

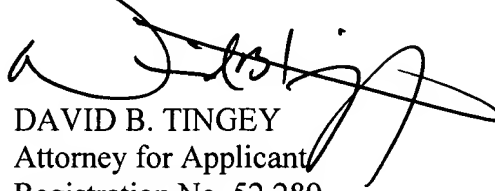
Thus, Applicant respectfully submits that for at least the reasons provided herein, the claim set as provided herein overcomes all rejections made by the Examiner in the Office Action.

CONCLUSION

Applicant submits that the amendments made herein do not add new matter and that the claims are now in condition for allowance. Accordingly, Applicant requests favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

DATED this 5th day of December, 2007.

Respectfully submitted,



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